

BUREAU OF AUTOMOTIVE REPAIR

FINAL STATEMENT OF REASONS

Hearing Dates: October 30, 2002

**Subject Matter of
Proposed Regulations:** Automotive Air Conditioning

Section Affected: §§ 3351.6 and 3366, Title 16, Division 33, Chapter 1,
Articles 6 and 8, California Code of Regulations

Updated Information:

The Initial Statement of Reasons is included in the file. No changes have been made which would warrant a change to the information contained therein.

Objections or Recommendations/Responses:

The following comments/objections/recommendations were made, either in writing or orally at the public hearings, regarding the proposed action:

1. Peter Coll, representing Neutronics, Inc., in oral testimony presented at the October 30, 2002 public hearing, offered the following:

- a. Neutronics supports the proposed action. We feel this will benefit both consumers and the automotive repair industry.

This expression of support was accepted and considered in the adoption of the proposed action.

- b. Our only concern is the potential difficulty in enforcing the changes in the law, as well as the bounds of the law. For example, how can a Bureau representative determine that a vacuum pump used by a particular shop is suitable for air conditioning work?

This comment/recommendation was rejected because:

The air conditioning recycle/recovery equipment specified in the regulations must meet the applicable S.A.E. standard, as specified. Each recycle/recovery unit must have a vacuum pump that meets the criteria established in the specified S.A.E. standard, as well as a label stating that the equipment meets the appropriate S.A.E. standard. As long as there is the appropriate S.A.E. label, Bureau staff expects that the equipment's vacuum pump is acceptable.

2. K. Martin Keller, Executive Director of the Automotive Repair Coalition (ARC) [written], and Johan Gallo, representing Bridgestone/Firestone and ARC [oral], in written and oral testimony presented at the October 30, 2002 public hearing, offered the following:

- a. The over 10,000 automotive repair dealer members of ARC continue to have serious concerns regarding the lack of on-going dialogue concerning matters of repair and regulation since the original round of discussions on this subject in 1998. We therefore request a new round of informal discussions to help the Bureau understand the practical impact of the current air conditioning regulations upon the practice and advertising of air conditioning repairs.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

Both individual automotive repair dealers and their associations are welcome to furnish the Bureau with comments and recommendations for regulatory changes at any time. In fact, this proposed action is a direct result of information and recommendations received from the industry.

Further, there currently exists an informal advisory group assembled by BAR and composed of representatives from various industry groups and associations, including ARC. Consumers are also represented in this group. This suggestion would be appropriate for consideration as one of the many topics upon which that group advises the BAR.

- b. ARC proposes that the regulations permit shops to attach a check sheet to the repair order for the items required in the regulations. This will help those shops without the computer capability to include these items on the invoice.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

The proposed action does not include a change in any provision relating to the preparation of work orders or invoices. Those provisions may be found in Sections 3353 and 3356 of Title 16 of the California Code of Regulations, and in Sections 9884.8 and 9884.9 of the Business and Professions Code.

- c. Many new air conditioning systems only have a single port, on the low side, but the current regulations require checking both the high and low sides. (See paragraph (15) of subsection (a) of Section 3366.) This requirement obviously does not fit vehicles with only a low side port. The regulations need to be

retooled to accommodate this fact.

This comment/recommendation was accepted and the proposed action was modified as follows to accommodate it:

While it is true that the air conditioning systems in many newer vehicles may have only a “low side” port from which to measure the system operating pressure; and while it is true that the current regulation and the proposed action require measuring and recording both the low and high side pressures, no regulation can be enforced to require the impossible. If the proposed action is not modified, the Bureau could not and would not discipline or chastise any licensee or technician for not measuring and recording something that cannot be measured and recorded. If there is no port from which to take a measurement then the measurement cannot be taken. As long as the “low side” measurement is taken and recorded in this situation, there would be no violation of this requirement as there would be substantial compliance.

However, in order to be absolutely clear on this subject, the Bureau has modified the proposed action to specifically require the measurement and recording of both the high and low side pressures only as applicable. In other words, if both sides are capable of being measured, they must both be measured. If only one side – high or low – can be measured, then only that side has to be measured.

The following modification was made to the text of Section 3366(a)(15):

* * * *

“(§15) High and low side system operating pressures, as applicable, have been measured and recorded on the final invoice; and,”

* * * *

- d. The requirement to record the measurements of the high side and low side system operating pressures on the final invoice should be eliminated.

This comment/recommendation was rejected because:

The proposed action never contemplated any change in the recording requirement for the high and low side system operating pressures; only a clarifying change regarding the measurement of the pressures. Therefor, the recommendation to eliminate the recording requirement is not germane to the proposed action.

The measuring and recording of the high and low side system operating pressures is necessary. These pressure readings are an integral part of the air conditioning system diagnostics process. A record of such reading can often play an important role in resolving future disputes concerning proper diagnostic and repair procedures.

- e. ARC suggests that the opening paragraph of Section 3351.6 be amended to specifically permit the requirement to have current reference manuals to be satisfied by having book, CD or electronic versions.

This comment/recommendation was rejected because:

No amendment is necessary as it can reasonably be inferred that having manuals in hard copy, compact disc or electronic version under the regulation's current form will satisfy this requirement. BAR will accept any such version of the applicable manuals as long as they are current.

- f. A lot of shop owners are concerned about whether or not their current equipment is going to meet the requirements of Section 3351.6. What changes will need to be made relative to equipment?

This comment/recommendation was rejected because:

Unlike the emission analyzer equipment used in the BAR-administered Smog Check Program, BAR will not be certifying the automotive air conditioning service equipment required and specified by Section 3351.6. Shop owners will have to consult the equipment manufacturer about whether their particular equipment complies with the applicable S.A.E. standards and Section 3351.6. The proposed action only does two things with respect to equipment. First, it incorporates, in subsection (c), S.A.E. standard J2210 (Rev. Feb. 1999) for refrigerant recovery equipment, which previously was inadvertently omitted from this subsection. Second, it simplifies and relaxes the requirement in subsection (e) for a vacuum pump.

The requirements of Section 3351.6 have been in effect since January 19, 2001. It is BAR's understanding that the two changes in the proposed action affecting equipment will not affect the compliance of equipment that previously complied with the January 19, 2001 version of Section 3351.6. Shops should not have to make any changes, relative to equipment, as a result of the proposed action if they are in compliance with the current (January 19, 2001) Section 3351.6.

- g. Are manufacturers going to be required to certify equipment?

This comment/recommendation was rejected because:

The United States Environmental Protection Agency requires any facility that recycles/recovers automotive air conditioning refrigerant to use S.A.E. approved equipment. The equipment manufacturers must affix a label stating that the equipment meets the appropriate S.A.E. standard. No other certification is required. If the equipment is going to be used for refrigerant measuring purposes, the California Department of Food and Agriculture – Division of Measurement Standards requires that the equipment manufacturers have the units certified for

measurement purposes. To date, no manufacturer has such certification and the equipment can not be used for refrigerant measurement purposes.

- h. With respect to paragraph (3) of subsection (a) of Section 3366, the accessibility of the compressor is a problem with some vehicles. It's sometimes difficult to gain access to the compressor to rotate it by hand.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

- i. With respect to paragraph (5) of subsection (a) of Section 3366, we recommend that the condenser coil be examined for visible damage, restrictions or leaks. There is really no way to determine whether or not there are internal problems.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

- j. With respect to paragraph (10) of subsection (a) of Section 3366, this step should include checking to see that electrical fan motors are operational and that fan blades are in tact.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

- k. With respect to paragraph (16) of subsection (a) of Section 3366, the requirement to record measurements on the final invoice should be eliminated.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

- l. ARC suggests that subsection (b) of Section 3366 should be eliminated in its entirety.

This comment/recommendation was rejected because:

This amendment was proposed at the urging of individual members of the automotive repair industry as well as industry associations. Subsection (b) is being added to Section 3366 so that individual unit repairs can be made without

performing all of the tests and procedures enumerated in this section, as long as the repair does not require or result in a breach of the sealed portions of the air conditioning system. This is consistent with the current provision in Section 3351.6 that limits the application of the equipment requirements to automotive repair dealers performing services or repairs which involve evacuation or full or partial recharge of the air conditioning system.

In the present form of Section 3366, it is unclear whether the replacement of a single minor air conditioning part would be considered “service,” within the meaning of this section, if the part is found to need replacement in the course of other, non-air conditioning related work. If the consumer has not requested “air conditioning service” and the work performed does not involve refrigerants, the necessity for the additional work and cost for unwanted and unneeded “service” is unclear. Without this clarification, this section could be interpreted to require that all 16 steps be performed before the part may be replaced.

If, because of the nature of the work being performed, the automotive repair dealer is not required to have the equipment necessary to perform many of the procedures specified in Section 3366, it would be illogical to require that those procedures be performed. The addition of subsection (b) will remove that conflict.

- m. One issue that still needs to be worked on is advertising. There are variations in advertising that continue to occur where, under the new regulations, shops can’t be in compliance and charge some of the prices that are being advertised.

This comment/recommendation was rejected because:

This comment does not address any specific element of the proposed action and is, therefore, found not to be germane.

There were no comments concerning the modified proposed action.

Local Mandate:

A mandate is not imposed on local agencies or school districts.

Business Impact:

This action will not have a significant adverse economic impact on businesses.

Specific Technologies or Equipment:

The proposed action does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.